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DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK ★ SEP 14 2018 ★

HanXun Wei,

Plaintiff

— against —

Director L. Francis Cissna and Donald W. Neufeld,

Defendants.

BROOKLYN OFFICE

18-cv-02337 (ARR) (RER)

Opinion & Order

Not for electronic or print
publication

Ross, United States District Judge:

This Court has received the report and recommendation, dated August 7, 2018, from the Honorable Ramon E. Reyes, United States Magistrate Judge. R. & R., ECF No. 5. After the parties failed to respond to the court's July 12, 2018 order, Judge Reyes issued this *sua sponte* report and recommendation urging that the case be dismissed without prejudice on either of two alternative grounds: (1) the plaintiff has failed to timely serve the defendants; and (2) the plaintiff has "fail[ed] to prosecute or fail[ed] to comply with a court order." *Id.* 3.

Objections were due by August 21, 2018, but none have been filed. The court reviews "de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b); *see also* *Brissett v. Manhattan & Bronx Surface Transit Operating Auth.*, No. 09-CV-874, 2011 WL 1930682, at *1 (E.D.N.Y. May 19, 2011). Where no timely objections have been filed, "the district court need only satisfy itself that there is no clear error on the face of the record." *Finley v. Trans Union, Experian, Equifax*, No. 17-CV-0371, 2017 WL 4838764, at *1 (E.D.N.Y. Oct. 24, 2017) (quoting *Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd.*, 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011)).

Having reviewed the record, I find no clear error. I therefore adopt the R. & R. in its entirety as the opinion of the Court, pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the action is dismissed without prejudice under Rule 4(m) for failure to timely serve the complaint, or, alternatively, under Rule 41(b) for failure to prosecute or comply with a court order. *Cf. Brown v. Watson*, No. 3:12-CV-03147, 2013 WL 5287664, at *1 (W.D. Ark. Sept. 19, 2013) (dismissing a case based on “the various and alternative grounds set forth in the report and recommendation[]”).

SO ORDERED.


/s/(ARR)

Allyne R. Ross
United States District Judge

Dated: September 12, 2018
Brooklyn, New York